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April 21, 2023

VIA ECF

Hon. Vernon S. Broderick, U.S.D.J.
Thurgood Marshall United States Courthouse
40 Foley Square, Room 415
New York, NY 10007

Hon. Sarah L. Cave, U.S.M.J.
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Courtroom 18A
New York, NY 10007

Re: *In re Keurig Green Mountain Single-Serve Coffee Antitrust Litig.*, MDL No. 2542;
Joint Status Update Regarding BJ's and Winn-Dixie Actions

Your Honors:

The parties to the BJ's and Winn-Dixie Actions write jointly in accordance with the operative Scheduling Order ¶ 12 (ECF No. 2025) to update the Court on the status of the cases, including whether any party intends to file a dispositive motion and what efforts the parties have made to settle the Actions.

Discovery

Fact discovery completed on September 16, 2022. Expert discovery completed on April 12, 2023.

Pending Motions

There are no pending motions in the BJ's Action. There are two motions currently pending in the Winn-Dixie Action:

- Winn-Dixie has objected to Magistrate Judge Cave's Order, ECF No. 2004, requiring Winn-Dixie to respond to Requests for Admission regarding the C&S assigned claims. *See* ECF Nos. 1985, 1991, 1994, 2015, 2016, 2020.
- Keurig has moved Magistrate Judge Cave for a Report and Recommendation that claims assigned to Winn-Dixie by C&S should be dismissed pursuant to Federal

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Rules of Civil Procedure 41(b) and 37(b). *See* ECF Nos. 1930, 1939, 1944, 1947, 1954, 1955, 1957, 1959, 1957, 1959, 1967, 1970, 1972, 1980, 1981, 1983.

Upcoming Motions

The parties propose the following substantive motions practice for the BJ's and Winn-Dixie Actions:

Plaintiffs BJ's and Winn-Dixie intend to file a consolidated motion for summary judgment. Plaintiffs also intend to file a consolidated *Daubert* motion against Keurig's liability expert, Dr. Kevin Murphy, and separate *Daubert* motions against Keurig's damages expert, Dr. Keith Ugone.

Keurig intends to file one concise, consolidated motion for summary judgment in the BJ's and Winn-Dixie Actions. Keurig also intends to file a *Daubert* motion against BJ's damages expert, Dr. Phillip Johnson, and against Winn-Dixie's damages expert, Dr. Martin Asher.

The parties will file pre-motion letters summarizing the bases for these motions on May 3, 2023, pursuant to the Scheduling Order ¶ 12(b). After filing the pre-motion letters, the parties will meet and confer and submit a proposed scheduling order for summary judgment and *Daubert* briefing. The parties propose a consolidated briefing schedule for the motions, with briefing to commence once the Court enters the proposed scheduling order. The parties anticipate a schedule of 45 days for opening briefs, 45 days for opposition briefs, and 30 days for reply briefs.

Settlement

[REDACTED] The parties believe that resolution of the anticipated summary judgment and *Daubert* motions, discussed above, will assist with the resolution of BJ's and Winn-Dixie's claims.

Respectfully submitted,

/s/ Leah Brannon

Leah Brannon

cc: Counsel of Record (via ECF)